

SENATE BILL REPORT

SB 5393

As of February 26, 2009

Title: An act relating to establishing the emergency management, preparedness, and assistance account.

Brief Description: Establishing the emergency management, preparedness, and assistance account.

Sponsors: Senators Kastama, Haugen and Fairley.

Brief History:

Committee Activity: Government Operations & Elections: 2/17/09.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Staff: Sharon Swanson (786-7447)

Background: The State Military Department (department), specifically the emergency management division, administers emergency management and disaster relief programs. The Director of the Military Department is appointed by the Governor and is charged with developing and maintaining a comprehensive emergency management plan for the state. Local jurisdictions are directed to establish comprehensive local emergency management plans, and submit their plans to the Director for recommendations. Local jurisdictions may also establish and operate joint local emergency management organizations.

The Emergency Management Council, whose members include representatives of city and county governments, law enforcement, fire chiefs, emergency management directors, and medical professions, advises the Governor and the Director on matters pertaining to state and local emergency management. The council studied local and tribal emergency management organizations and issued a report in September 2004. The report made a number of recommendations, including the establishment of a stable state funding source to support emergency planning.

In 2006 the Legislature authorized the Emergency Management Preparedness Assistance Grant program and provided \$1.6 million for competitive grants for high impact, short-term emergency preparedness projects. Thirty grants were made to local and tribal governments, regional agencies, regional incident management teams, and private organizations.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): The Emergency Management and Preparedness Assistance Account (account) is created in the State Treasury.

An annual surcharge of one and one-third percent per policy is imposed on every homeowner's, mobile homeowner's, manufactured homeowner's, tenant homeowner's, condominium unit owner's insurance policy, commercial fire, commercial multiple peril, and business owner's property insurance policy issued or renewed on or after the effective date of the act. The policy holder is required to pay the surcharge to the insurer. The insurer must collect the surcharge and remit it to the Department of Revenue (DOR).

DOR will collect, administer, audit, and enforce the surcharge. All proceeds from the surcharge must be deposited in the account.

The department must administer the account and establish rules for its administration in consultation with the Emergency Management Council (council) and the Washington State Emergency Management Association (association).

The department must not use more than 20 percent of the funds appropriated from the account for administrative costs, the costs of a base assessment, and to fund state agency programs and other activities; at least 60 percent of funds for local and tribal government activities; at least 10 percent for a competitive grant program to improve local and regional programs; and at least 10 percent for a response and recovery contingency fund. Distribution of funds will begin January 1, 2011.

The council is required to accomplish a baseline assessment of all emergency management programs that receive federal emergency management performance grant funds within six months after the act takes effect. Beginning biennially thereafter, the council must conduct in conjunction with the department, a strategic assessment of the baseline required standards as defined by rules adopted by the department in consultation with the council and the association. Additionally, the parties must issue a report on the ability of the state, local, and tribal emergency management organizations to effectively provide for all phases of comprehensive emergency management.

The Joint Legislative Audit and Review Committee must study and review the performance of programs implemented through the act and must consider the following factors:

- the number and type of joint exercises conducted;
- the number of programs receiving grant money and the status of those programs;
- the coordination of comprehensive emergency management plans between state and local jurisdictions;
- the number of training programs administered;
- the number of comprehensive emergency management or safety plans created using funds distributed;
- the number of emergency preparedness officials created and trained with funds distributed from the account.

The definition of "premium" is amended to clarify that a premium does not include the annual surcharge imposed under this act.

Language is added clarifying that the requirements for premiums of an insurance policy do not apply to the surcharge imposed.

The act contains a referendum clause.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Sections 4-6 and 8 take effect January 1, 2010.

Staff Summary of Public Testimony: PRO: This bill has a referendum clause so it will go before the voters. Florida passed a very similar bill after Hurricane Andrew. It took a major natural disaster for them to act. The surcharge in this bill is not a retaliatory tax. This is a surcharge and not a tax. This will be the first bill to pass if we have a major catastrophe in the northwest, but let's not wait for that to happen. This is a very proactive bill. Right now in Pierce County there are four open Presidential-declared disaster zones. We have had \$14 million in damage to public structures. The grant program in the bill will assist smaller counties to help them to sustain and raise to a level of having some emergency management abilities. They need basic abilities to respond and recover. For the rural communities this is extremely important legislation.

CON: Insurance providers currently provide nearly \$400 million through the premium tax that goes to the General Fund. This is a significant contribution from the industry. And the insurance industry pays for its own regulation by funding the Office of the Insurance Commissioner. What this bill does is of terrific value, but if this is a societal concern and provides a societal benefit then the burden should be carried by all of society not just a few specific insurance providers and consumers. The surcharge contemplated in this bill is 133 times greater than the surcharge that funds the entire Office of the Insurance Commissioner with 125 full-time equivalents. The bill places a burden only on the insurance buying public and that is not appropriate as this issue touches upon everyone. The retaliatory provisions of this bill will be damaging to the domestic insurance industry. We cannot control what other states will do in response to the surcharges contemplated in this bill. This is not an appropriate funding source.

Persons Testifying: PRO: Senator Kastama, prime sponsor; Steve Bailey, Washington State Emergency Management.

CON: Mel Sorensen, Property Casualty Insurers Association; Gary Strannigan, Safeco; Jean Leonard, Washington Insurers State Farm Insurance.